

## Article - Labor and Employment

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§3–308.

(a) An employer may not:

- (1) willfully violate any provision of this subtitle;
- (2) hinder, delay, or otherwise interfere with the Commissioner or an authorized representative of the Commissioner in the enforcement of this subtitle;
- (3) refuse entry to the Commissioner or an authorized representative of the Commissioner into a place of employment that the Commissioner is authorized under this subtitle to inspect;
- (4) discharge or otherwise discriminate against an employee or applicant for employment because the employee or applicant for employment:
  - (i) makes a complaint to the employer, the Commissioner, or another person;
  - (ii) brings an action under this subtitle or a proceeding that relates to the subject of this subtitle or causes the action or proceeding to be brought; or
  - (iii) has testified or will testify in an action under this subtitle or a proceeding that relates to the subject of this subtitle; or
- (5) violate § 3–304.2 of this subtitle.

(b) An employee or an applicant for employment may not:

- (1) make a groundless or malicious complaint to the Commissioner or an authorized representative of the Commissioner;
- (2) in bad faith, bring an action under this subtitle;
- (3) in bad faith, bring a proceeding that relates to the subject of this subtitle; or
- (4) in bad faith, testify in an action under this subtitle or a proceeding that relates to the subject of this subtitle.

(c) The Commissioner may bring an action for injunctive relief and damages against a person who violates subsection (a)(1) or (4) or subsection (b)(1), (3), or (4) of this section.

(d) (1) Except as provided in paragraph (2) of this subsection, an employer who violates any provision of subsection (a)(2) or (3) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$300.

(2) (i) This paragraph does not apply to a violation of § 3–304.2 of this subtitle.

(ii) If an employer is found to have violated this subtitle two or more times within a 3–year period, the Commissioner or a court may require the employee to pay a civil penalty equal to 10% of the amount of damages owed by the employer.

(iii) Each civil penalty assessed under this paragraph shall be paid to the General Fund of the State to offset the cost of enforcing this subtitle.

(e) (1) If the Commissioner determines that an employer has violated § 3–304.2 of this subtitle, the Commissioner:

(i) shall issue an order compelling compliance; and

(ii) may, in the Commissioner’s discretion:

1. for a first violation, issue a letter to the employer compelling compliance;

2. for a second violation, assess a civil penalty of up to \$300 for each applicant for employment for whom the employer is not in compliance; or

3. for each subsequent violation, assess a civil penalty of up to \$600 for each applicant for employment for whom the employer is not in compliance if the violation occurred within 3 years after a previous determination that a violation had occurred.

(2) In determining the amount of the penalty, if assessed, the Commissioner shall consider:

(i) the gravity of the violation;

- (ii) the size of the employer's business;
- (iii) the employer's good faith; and
- (iv) the employer's history of violations under this subtitle.

(3) If the Commissioner assesses a penalty under paragraph (1)(ii) of this subsection, the penalty shall be subject to the notice and hearing requirements of Title 10, Subtitle 2 of the State Government Article.

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